6. Petitioner's assignment of errors, upon which this case is based, alleges several frivolous constitutional arguments, including, but not limited to:

(a) Collections agents are working for an undisclosed principle and/or an undisclosed fiduciary; therefore there is no duty to pay taxes.

(b) There is no basis for the penalties or interest asserted. [⊥ 4]

(c) The Secretary has not signed the Notices of Deficiency nor has the Secretary submitted any other statements or claims to the Petitioner.

7. Petitioner makes no material allegations of fact in support of any of the errors assigned in the Petition but argues only vaguely stated law and legal conclusions therein.

8. No justiciable error has been alleged in the Petition with respect to the Commissioner's determination set forth in the Notices of Deficiency or revised deficiency letters and no facts in support of any such error are apparent therein. The absence in the Petition of specific justiciable allegations of error and of supporting facts permits this Court to grant Respondent's Motion. Tax Court Rule 123(b). Carskadon v. Commissioner, T.C. Memo. 2003-237; Bernsdorff v. Commissioner, T.C. Memo. 1994-634; Klein v. Commissioner, 45 T.C. 308 (1965); Goldsmith v. Commissioner, 31 T.C. 56 (1958).

9. The document filed in this case is not a proper petition, but rather is a statement making frivolous constitutional arguments with no factual basis. Petitioner's positions are totally without merit. This Court and other Federal Courts have repeatedly upheld the validity of the Federal income tax laws against such challenges. Michael v. [⊥ 5] Commissioner, T.C. Memo. 2003-26; Johnson v. Commissioner, T,C. Memo. 1999-312; Abrams v. Commissioner, 82 T.C. 403 (1984).

10. The document filed as the Petition does not comply with the Rules of the Tax Court as to the form and content of the Petition and fails to state a claim upon which relief can be granted.

11. Petitioner merely filed this Petition as a protest to paying income taxes. Furthermore, Petitioner has filed excessively burdensome and frivolous documents with the Court such as Petitioner's Objection to Rule 50, Petitioner's Objection to Rule 120, a *Pollock I* Notice, Wallis' First Notice of Lien on Judge Joel Gerber, and Wallis' Second Notice of Lien on Respondent's Counsel, copies of which are attached as Exhibits F, G, H, I and J, respectively. Such action falls within the bounds of I.R.C. § 6673, based on the fact the Petitioner has instituted these proceedings primarily for the purpose of delay and the Petitioner's position in the case is groundless and frivolous. Respondent requests the Court impose § 6673 sanctions in an amount it deems appropriate as the Court has done so in other such frivolous cases.

12. Pursuant to I.R.C. § 7491(c), Respondent bears the burden of production in any court proceeding with respect to the imposition of penalties and additions to tax. [⊥ 6]

a.) Respondent asserts that Petitioner is liable for I.R.C. 6651(a) (1) additions to tax for the 2000 and 2001 tax years. Attached as Exhibits K and L are certified MFTRA-X transcripts for Petitioner's 2000 and 2001 tax years, respectively, showing that Petitioner failed to file federal income tax returns for the 2000 and 2001 tax years.

b.) Respondent asserts that Petitioner is liable for I.R.C [2] § 6654 additions to tax for the 2000 and. 2001 tax years. The MFTRA-X transcripts of Petitioner's accounts for 2000 and 2001 (Exhibits K and L) show. that Petitioner failed to make any

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[2] N.B. As such in the original.

estimated income tax payments in those years. Additionally, attached as Exhibit M is a certified IRPTR transcript for Petitioner's 1999 tax year showing that Petitioner had an income tax liability for the 1999 tax year and is not excepted from making estimated tax payments toward the 2000 tax year under I.R.C. § 6654(e)(2). [⊥ 7]

WHEREFORE, Respondent prays that this Motion be granted and that this Court impose sanctions in an appropriate amount pursuant to I.R.C. S 6673.

DONALD L. KORB
Chief Counsel
Internal Revenue Service

Date: FEB 0 4 2005 By: */s/ Brook R. Barrow*
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CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED AND TO IMPOSE A PENALTY UNDER I.R.C. § 6673 was served on Petitioner by mailing the same on FEB 0 4 2005 in a postage paid wrapper addressed as follows:

Scott Wallis
[appropriate address]

Date FEB 0 4 2005 */s/ Brook R. Barrow*
BROOK R. BARROW
Senior Attorney
(Small Business/Self-Employed)
Tax Court Bar No. RB0206

Rule 14.1(i)(iii)—Rehearing

No rehearing sought or granted.

Rule 14.1(i)(iv)—Judgment of different date

No judgment of date different from the opinion.

Rule 14.1(i)(v)—Statutes and Rules

See language included in the petition.

Rule 14.1(i)(vi)—Additional Essential Materials

This Record is rather short. Nothing else is included here.